

Town of Lamoine, Maine
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DRAFT



Policy Regarding Use of the Town Attorney June 15, 2006

This policy repeals a policy dated June 10, 1992 and replaces it with the following language.

I. Purpose

- a. The purpose of this policy is to clarify the proper procedure to utilize the services of the Lamoine Town Attorney, and to implement budgetary controls for such use.
- b. This policy applies to all officials of the Town of Lamoine appointed by the Board of Selectmen as well as the elected Board of Assessors and the Selectmen collectively and/or individually.

II. Authority

- a. The Selectmen are the duly authorized, elected and sworn municipal officers of the Town Of Lamoine and hereby are responsible for making policy regarding day to day operations of the town. The Board is also responsible for appointing and supervising numerous individuals to various boards, committees and municipal jobs within the Town of Lamoine.

III. Standards

- a. The use of the town attorney is only for issues that arise during the conduct of municipal business where a legal opinion is required in order to proceed, decide, or adjudicate matters. The following boards have permission for initial consultation with the town attorney through their chairs or through board members so designated by the chair:
 - i. Planning Board
 - ii. Board of Appeals
 - iii. Board of Assessors
- b. The following personnel have permission to initially consult with the town attorney prior to approval by the Board of Selectmen:
 - i. Administrative Assistant to the Selectmen
 - ii. Code Enforcement Officer
 - iii. Animal Control Officer
 - iv. Fire Chief
 - v. Health Officer
 - vi. Harbor Master

- c. Following initial consultation with the town attorney pursuant to paragraphs a. and b. above, the person contacting the town attorney shall notify (in writing) the Board of Selectmen through its Administrative Assistant indicating the date and the nature of the matter for which the consultation was made. The Selectmen shall decide at their next regular meeting whether further consultation shall be authorized for the affected board/position. Should the situation warrant emergency action in which waiting for a regular Selectmen's meeting to occur is impossible, the chair of the Board of Selectmen shall be notified immediately, and the Selectmen shall hold a special meeting at the earliest practical convenience. The chair of the Board of Selectmen shall have the right to grant emergency further consultation privileges.
- d. Other boards, committees, and staff appointees shall not consult the town attorney without an express vote of the Board of Selectmen.
- e. Those appointees seeking legal advice may, and are encouraged to, utilize other resources, including Maine Municipal Association's legal services, other staff, officials in other municipalities, state agencies.
- f. When contacting the town attorney, the appointed/elected official shall identify their capacity with the town, the issue upon which they seek advice, and clarify what party the town attorney is expected to represent in the matter. Ideally, initial consultations shall be in written as well as oral form.

IV. Validity & Severability

- a. Should any section of this policy be declared illegal or unenforceable, it shall not invalidate any other section of this policy.

V. Definitions

- a. **Town Attorney** – The attorney so designated in the personnel list by the Board of Selectmen. At the time of initial passage of this ordinance, the Town Attorney is Anthony Beardsley of the firm of Roy, Beardsley, Williams & Granger of Ellsworth. The designation of the town attorney may change from time to time, but the designation of town attorney shall continue until the Board of Selectmen decides otherwise.
- b. **Consultation** – A consultation includes, but is not limited to, contact by telephone, facsimile, or e-mail between an appointed/elected official and the town attorney. Initial consultation shall be limited to identification of the issue, identification of the appointed/elected official, clarification of what entity the Town Attorney is representing, and, if practical, an initial response to the query posed by the appointed/elected official by the town attorney.
- c. **Municipal Matters**- A municipal matter is one that an elected/appointed official has the authority to deal with. For example, the Animal Control Officer could consult with the town attorney for a matter related to proper procedure on obtaining a search warrant on an animal complaint. That same ACO could not consult with the town attorney on a dispute with his neighbor on a potential code enforcement violation.

- d. **Emergency** – An emergency matter is one which, through inaction, could result in a threat to public safety, public or private property, or could jeopardize the legal standing of the Town of Lamoine. Such emergencies include, but are not limited to dangerous health situations, filings of lawsuits against the town, execution of administrative search warrants, matters dealing with dangerous animals, and matters dealing with unsafe building conditions.

VI. Signature

This policy is enacted, and the previous policy identified above is hereby repealed on this 15th day of June, 2006 by:

S. Josephine Cooper, Chair

Brett Jones

Cynthia Donaldson

The Lamoine Board of Selectmen

Perry Fowler

Richard Fennelly, Jr.

Attest: a true copy

Stuart Marckoon, Deputy Clerk